

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STAHL LAW FIRM, et al.,
Plaintiffs,
v.
JUDICATE WEST, et al.,
Defendants.

Case No. 13-cv-01668-TEH

ORDER REQUESTING CLARIFICATION

This matter is scheduled to come before the Court on January 13, 2014, on Defendant Vincent Di Figlia’s (“Defendant”) motion for sanctions pursuant to Federal Rule of Civil Procedure 11. Rule 11(c)(2) provides strict procedural requirements for parties to follow when they move for sanctions under Rule 11. To comply with the Rule, Defendant was required to serve its Rule 11 motion on Plaintiffs pursuant to Rule 5 but not file or present the Rule 11 motion to the Court for at least twenty-one days after service so as to allow Plaintiffs the opportunity to withdraw the complaint within the safe harbor time period. Fed. R. Civ. P. 11(c)(2); *Radcliffe v. Rainbow Const. Co.*, 254 F.3d 772, 789 (9th Cir. 2001).

Counsel for Defendant averred that “Mr. Stahl was served with the Rule 11 Motion prior to its filing” and that he was provided with “a safe harbor to withdraw his Second Amended Complaint” but failed to do so. Declaration of Colin H. Walshok, ¶ 6, Docket No. 73-1. The Court notes, however, that the motion for sanctions provides that “if Mr. Stahl does not withdraw his Second Amended Complaint during the safe harbor time period, counsel for Defendant Di Figlia will prepare a declaration detailing the attorney’s fees and costs they have incurred” Mot. at 9-10, Docket No. 67. The Court could therefore infer from the language of the filed motion that it was not served prior to the expiration of the safe harbor or, as is more likely, could infer that this is a copy of the

1 motion that was served on Plaintiffs, and then later filed after the safe harbor period had
2 run. The Court requires clarification on this issue. Accordingly, Defendant IS HEREBY
3 ORDERED to file a copy of the Rule 11 motion served on Plaintiffs, in addition to the
4 proof of service thereto no later than **January 17, 2014**.

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6 **IT IS SO ORDERED.**

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THELTON E. HENDERSON
United States District Judge